

1 Senate BILL NO. 213
2 INTRODUCED BY Turnage Brown

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE CHALLENGES
5 FOR CAUSE OF JURORS IN CRIMINAL CASES WHO ENTERTAIN
6 CONSCIENTIOUS BELIEFS REGARDING A PARTICULAR PUNISHMENT WHEN
7 THE CHALLENGE IS BASED SOLELY ON SUCH BELIEFS; AMENDING
8 SECTION 95-1909, R.C.M. 1947."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 95-1909, R.C.M. 1947, is amended to
12 read as follows:

13 "95-1909. Trial jurors. (a) The clerk of court shall
14 make available to the parties a list of prospective jurors
15 with their addresses when drawn.

16 (b) (1) The qualifications of jurors, and who will be
17 exempted, are found in ~~sections~~ 93-1301 through 93-1307 of
18 the Civil Code, which by reference are made a part of this
19 code.

20 (2) An exemption from service on a jury is not a cause
21 of challenge, but the privilege of the person exempted.

22 (c) The county attorney and the defendant or his
23 attorney shall conduct the examination of prospective
24 jurors. The court may conduct an additional examination. The
25 court may limit the examination by the defendant, his

1 attorney or the prosecuting attorney if the court believes
2 such examination to be improper.

3 (d) (1) Each party may challenge jurors for cause, and
4 each challenge must be tried by the court.

5 (2) A challenge for cause may be taken for all or any
6 of the following reasons; or for any other reason which the
7 court determines:

8 (i) ~~Consanguinity~~ consanguinity or relationship to the
9 person alleged to be injured by the offense charged, or on
10 whose complaint the prosecution was instituted, or to the
11 defendant; ~~i~~

12 (ii) ~~Standing~~ standing in the relation of guardian and
13 ward, attorney and client, master and servant, or landlord
14 and tenant, debtor and creditor, or being a member of the
15 family of the defendant, or of the person alleged to be
16 injured by the offense charged, or on whose complaint the
17 prosecution was instituted, or in his employment; ~~i~~

18 (iii) ~~Being~~ being a party adverse to the defendant in
19 a civil action, or having complained against or been accused
20 by him in a criminal prosecution; ~~i~~

21 (iv) ~~Having~~ having served on the grand jury which
22 found the indictment, or on a coroner's jury which inquired
23 into the death of a person whose death is the subject of the
24 indictment or information; ~~i~~

25 (v) ~~Having~~ having served on a trial jury which has

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1 tried another person for the offense charged;

2 (vi) Having having been one of a jury formerly sworn
3 to try the same charge, and whose verdict was set aside or
4 which was discharged without verdict, after the case was
5 submitted to it;

6 (vii) Having having served as a juror in a civil
7 action brought against the defendant for the act charged as
8 an offense;

9 ~~(viii) If the offense charged be punishable with~~
10 ~~death, with entertaining of such conscientious opinions as~~
11 ~~would preclude his finding the defendant guilty, in which~~
12 ~~case he must neither be permitted nor compelled to serve as~~
13 ~~a juror.~~

14 ~~(ix) Having a belief that the punishment fixed by law~~
15 ~~is too severe for the offense charged.~~

16 ~~(x)(viii)~~ For for the existence of a state of mind on
17 the part of the juror in reference to the case, or to either
18 of the parties, which will prevent him from acting with
19 entire impartiality and without prejudice to the substantial
20 rights of either party.

21 (e) All challenges must be interposed before the jury
22 is sworn, unless the cause of challenge be discovered after
23 the jury is sworn and before the introduction of any
24 evidence, when the court, in its discretion may allow the
25 challenge to be interposed.

1 (f) Each defendant shall be allowed eight ~~{8}~~
2 peremptory challenges in capital cases, six ~~{6}~~ in all other
3 cases tried in the district court before a ~~twelve--{12}~~
4 person 12-person jury, and three ~~{3}~~ in all cases tried in
5 justice of the peace or police courts. However, there may
6 not be additional challenges for separate counts charged in
7 the indictment or information. If the indictment or
8 information charges a capital offense, as well as lesser
9 offenses in separate counts, the maximum number of
10 challenges shall be eight ~~{8}~~. The state shall be allowed
11 the same number of peremptory challenges as all of the
12 defendants. In a civil or criminal case tried in the
13 district court before a ~~six--{6}--person~~ six-person jury, the
14 state and all the defendants shall be allowed three ~~{3}~~
15 peremptory challenges each.

16 (g) After the jury is impaneled and sworn, the court
17 may direct the selection of one or more alternate jurors, in
18 the same manner as principal jurors, who shall take the same
19 oath as the principal jurors. Each party shall have one
20 additional peremptory challenge for each alternate juror.
21 Alternate jurors in the order in which they are called shall
22 replace jurors who, prior to the time the jury arrives at
23 its verdict, become unable or disqualified to perform their
24 duties. An alternate juror shall not join the jury in its
25 deliberation unless called upon by the court to replace a

1 member of the jury. His conduct during the period in which
2 the jury is considering its verdict shall be regulated by
3 instructions of the trial court. An alternate juror who does
4 not replace a principal juror shall be discharged after the
5 jury arrives at its verdict.

6 (h) The jury shall return a general verdict to each
7 offense charged.

8 (i) When, at the close of the state's evidence or at
9 the close of all the evidence, the evidence is insufficient
10 to support a finding or verdict of guilty, the court may on
11 its own motion or on the motion of the defendant, dismiss
12 the action and discharge the defendant. However, the court
13 may allow the case to be reopened for good cause shown."

-End-

Approved by Committee
on Judiciary

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